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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,868	11/13/2003	Florent Picard	PET-2106	6299
23599 7590 03/21/2007 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			EXAMINER SINGH, PREM C	
			ART UNIT 1764	PAPER NUMBER
			MAIL DATE 03/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/705,868	PICARD ET AL.	
	Examiner	Art Unit	
	Prem C. Singh	1764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-8, 10 and 12-23.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that the examiner has not taken into consideration the unexpected results that are achieved in connection with the treatment of an FCC gasoline.


The Applicant's argument is not persuasive because the "unexpected results" with FCC gasoline in comparison with other gasolines has not been presented.

The Applicant argues that the combination of steps (a) and (b) in claim 1 is novel and provides unexpected results in the form of a higher desulfurization level without significantly reducing the olefin content while at the same time providing a lower diolefin content in the gasoline. Pages 16 and 17 provide exemplification of Applicants' unexpected results.

The Applicant's argument is not persuasive because pages 16 and 17 of the Specifications show the use of a FCC gasoline (E1) undergoing selective hydrogenation and reducing sulfur from 1318 ppm to 1314 ppm (a reduction of 0.3%) (See Table 3). This improvement in desulfurization is not significant. Additionally, there is no showing that these results will not be obtained if using a gasoline other than FCC.

The Applicant argues that the reference to Parker U.S. 3,457,163 is not related to an FCC gasoline, and there would just be no motivation for one of ordinary skill in the art to use the teachings of Parker 3,457,163, as pointed out on page 9 of Applicants' reply of July 25, 2006. Now that Applicants' process is limited to the treatment of FCC gasolines, the argument presented by the Examiner in paragraph 2, last page of the advisory action of December 26, 2006 is no longer pertinent. The stubborn fact is that prior to the present invention it was entirely unknown that a separate step of hydrogenating an FCC gasoline to eliminate minor amounts of diolefins would also provide a higher desulfurization level without significantly reducing the olefin content.

The Applicant's argument is not persuasive because although Parker uses pyrolysis gasoline and does not specifically mention using FCC gasoline, the invention discloses, "The term "stabilized pyrolysi gasoline" is intended to include aromatic hydrocarbons substantially free of olefins as well as fractions obtained from a suitable feedstock which may be subsequently used in gasoline blending." (Column 5, lines 32-36). Since FCC gasoline is known to be a blending component in the gasoline pool, it would have been obvious to one skilled in the art at the time the invention was made to modify Parker invention and use a FCC gasoline instead of pyrolysis gasoline because both are blending components for finished gasoline.


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